

correct the errors and recalculate the balance of emission credits. You may not make these corrections for errors that are determined more than 270 days after the end of the model year. If you report a negative balance of emission credits, we may disallow corrections under this paragraph (g)(2).

(3) If you or we determine anytime that errors mistakenly increased your balance of emission credits, you must correct the errors and recalculate the balance of emission credits.

(h) We may modify these requirements for owners/operators required to submit reports because of their involvement in credit transferring.

[73 FR 37197, June 30, 2008, as amended at 75 FR 22987, Apr. 30, 2010]

§ 1033.735 Required records.

(a) You must organize and maintain your records as described in this section. We may review your records at any time.

(b) Keep the records required by this section for at least eight years after the due date for the end-of-year report. You may not use emission credits for any engines if you do not keep all the records required under this section. You must therefore keep these records to continue to bank valid credits. Store these records in any format and on any media, as long as you can promptly send us organized, written records in English if we ask for them. You must keep these records readily available. We may review them at any time.

(c) Keep a copy of the reports we require in § 1033.730.

(d) Keep records of the engine identification number for each locomotive you produce that generates or uses emission credits under the ABT program. If you change the FEL after the start of production, identify the date you started using each FEL and the range of engine identification numbers associated with each FEL. You must also be able to identify the purchaser and destination for each engine you produce.

(e) We may require you to keep additional records or to send us relevant in-

formation not required by this section in accordance with the Clean Air Act.

[73 FR 37197, June 30, 2008, as amended at 75 FR 22987, Apr. 30, 2010]

§ 1033.740 Credit restrictions.

Use of emission credits generated under this part 1033 or 40 CFR part 92 is restricted depending on the standards against which they were generated.

(a) *Credits from 40 CFR part 92.* NO_x and PM credits generated under 40 CFR part 92 may be used under this part in the same manner as NO_x and PM credits generated under this part.

(b) *General cycle restriction.* Locomotives subject to both switch cycle standards and line-haul cycle standards (such as Tier 2 locomotives) may generate both switch and line-haul credits. Except as specified in paragraph (c) of this section, such credits may only be used to show compliance with standards for the same cycle for which they were generated. For example, a Tier 2 locomotive that is certified to a switch cycle NO_x FEL below the applicable switch cycle standard and a line-haul cycle NO_x FEL below the applicable line-haul cycle standard may generate switch cycle NO_x credits for use in complying with switch cycle NO_x standards and a line-haul cycle NO_x credits for use in complying with line-haul cycle NO_x standards.

(c) *Single cycle locomotives.* As specified in § 1033.101, Tier 0 switch locomotives, Tier 3 and later switch locomotives, and Tier 4 and later line-haul locomotives are not subject to both switch cycle and line-haul cycle standards.

(1) When using credits generated by locomotives covered by paragraph (b) of this section for single cycle locomotives covered by this paragraph (c), you must use both switch and line-haul credits as described in this paragraph (c)(1).

(i) For locomotives subject only to switch cycle standards, calculate the negative switch credits for the credit using locomotive as specified in § 1033.705. Such locomotives also generate an equal number of negative line-haul cycle credits (in Mg).

(ii) For locomotives subject only to line-haul cycle standards, calculate the negative line-haul credits for the credit

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using locomotive as specified in § 1033.705. Such locomotives also generate an equal number of negative switch cycle credits (in Mg).

(2) Credits generated by Tier 0, Tier 3, or Tier 4 switch locomotives may be used to show compliance with any switch cycle or line-haul cycle standards.

(3) Credits generated by any line-haul locomotives may not be used by Tier 3 or later switch locomotives.

(d) *Tier 4 credit use.* The number of Tier 4 locomotives that can be certified using credits in any year may not exceed 50 percent of the total number of Tier 4 locomotives you produce in that year for U.S. sales.

(e) *Other restrictions.* Other sections of this part may specify additional restrictions for using emission credits under certain special provisions.

§ 1033.745 Compliance with the provisions of this subpart.

The provisions of this section apply to certificate holders.

(a) For each engine family participating in the ABT program, the certificate of conformity is conditional upon full compliance with the provisions of this subpart during and after the model year. You are responsible to establish to our satisfaction that you fully comply with applicable requirements. We may void the certificate of conformity for an engine family if you fail to comply with any provisions of this subpart.

(b) You may certify your engine family to an FEL above an applicable emission standard based on a projection that you will have enough emission credits to offset the deficit for the engine family. However, we may void the certificate of conformity if you cannot show in your final report that you have enough actual emission credits to offset a deficit for any pollutant in an engine family.

(c) We may void the certificate of conformity for an engine family if you fail to keep records, send reports, or give us information we request.

(d) You may ask for a hearing if we void your certificate under this section (see § 1033.920).

§ 1033.750 Changing a locomotive's FEL at remanufacture.

Locomotives are generally required to be certified to the previously applicable emission standard or FEL when remanufactured. This section describes provisions that allow a remanufactured locomotive to be certified to a different FEL (higher or lower).

(a) A remanufacturer may choose to certify a remanufacturing system to change the FEL of a locomotive from a previously applicable FEL or standard. Any locomotives remanufactured using that system are required to comply with the revised FEL for the remainder of their service lives, unless it is changed again under this section during a later remanufacture. Remanufacturers changing an FEL must notify the owner of the locomotive that it is required to comply with that FEL for the remainder of its service life.

(b) Calculate the credits needed or generated as specified in § 1033.705, except as specified in this paragraph. If the locomotive was previously certified to an FEL for the pollutant, use the previously applicable FEL as the standard.

Subpart I—Requirements for Owners and Operators

§ 1033.801 Applicability.

The requirements of this subpart are applicable to railroads and all other owners and operators of locomotives subject to the provisions of this part, except as otherwise specified. The prohibitions related to maintenance in § 1033.815 also applies to anyone performing maintenance on a locomotive subject to the provisions of this part.

§ 1033.805 Remanufacturing requirements.

(a) See the definition of “remanufacture” in § 1033.901 to determine if you are remanufacturing your locomotive or engine. (NOTE: Replacing power assemblies one at a time may qualify as remanufacturing, depending on the interval between replacement.)

(b) See the definition of “new” in § 1033.901 to determine if remanufacturing your locomotive makes it subject to the requirements of this part. If